

MAY 3 0 2001

DEPT. OF INSURANCE
BY

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:) Docket No. 01A-143-INS
)
John Hancock Mutual Life Insurance Company,) **CONSENT ORDER**
n.k.a **John Hancock Life Insurance Company,**)
NAIC #65099)
Respondent.)

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of John Hancock Mutual Life Insurance Company ("JHMICO") now known as John Hancock Life Insurance Company ("JHLICO"). The Report of the Examination of the Market Conduct Affairs of JHMLICO dated December 31, 1994 alleges that JHMLICO has violated A.R.S. §§ 20-448.01, 20-461, 20-462, 20-2110; and A.A.C. R20-6-211, R20-6-215, R20-6-801, R20-6-1007, R20-6-1014, and R20-6-1203.

JHLICO wishes to resolve this matter without formal adjudicative proceedings, and does not contest that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. JHLICO is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.

2. John Hancock Mutual Life Insurance Company changed its name to John Hancock Life Insurance Company effective February 1, 2000.

3. The Examiners were authorized by the Director to conduct a market conduct examination of JHMLICO. The on-site examination covered the time period from January 1, 1992 through December 31, 1994.

1 Based on the findings the Examiners prepared the "Report of Examination of the
2 Market Conduct Affairs of John Hancock Mutual Life Insurance Company" dated
3 December 31, 1994.

4 4. The Examiners reviewed 108 life insurance applications denied by
5 JHMLICO during the time frame of the examination, and found as follows:

6 a. JHMLICO failed to provide nine applicants with a *Summary of Rights*.

7 b. JHMLICO failed to provide nine applicants with the specific reasons
8 for the adverse underwriting decisions in writing, or to advise them that they may
9 receive the specific reasons in writing.

10 c. JHMLICO failed to require a statement from the agent with two
11 applications as to whether or not the agent had knowledge that replacement was or
12 may be involved in the transaction.

13 d. JHMLICO as replacing insurer failed to require that the agent provide
14 a copy of the "*Notice Regarding Replacement of Life Insurance*" signed by the
15 applicant, with four applications.

16 e. JHMLICO as replacing insurer failed to require from the agent copies
17 of all sales proposals used in three transactions.

18 f. JHMLICO as replacing insurer failed to send one existing insurer a
19 copy of the "*Notice Regarding Replacement of Life Insurance*" within three working
20 days of the date the application was received at its home office, or the date the policy
21 was issued, whichever was sooner.

22 g. JHMLICO used a consent form that was not filed with the Director to
23 obtain consent for HIV-related testing.

24 5. The Examiners reviewed 303 life insurance policies issued or replaced by
25 the Company during the time frame of the examination and found as follows:

1 a. JHMLICO issued five policies in which computer sales illustrations
2 were used that included life insurance cost indexes without the required explanation of
3 their use.

4 b. JHMLICO failed to require a statement from the agent with eight
5 applications as to whether the agent had knowledge that replacement may be involved
6 in the transaction.

7 c. JHMLICO as replacing insurer failed to require the agent to provide
8 copies of "*Notices Regarding Replacement of Life Insurance*" with nine applications.

9 d. JHMLICO as replacing insurer failed to require from the agent a copy
10 of all sales proposals used in 31 transactions.

11 e. JHMLICO as replacing insurer failed on ten occasions to send
12 existing insurers copies of the *Notice Regarding Replacement of Life Insurance* within
13 three working days.

14 f. JHMLICO as replacing insurer failed on 67 occasions to send existing
15 insurers copies of the Policy Summaries within three working days of the policy issue
16 dates.

17 g. JHMLICO failed to provide six policyholders with Policy Summaries
18 for replacement policies, at or prior to the delivery of the policies.

19 h. JHMLICO used a consent form that was not filed with the Director to
20 obtain consent for HIV-related testing.

21 i. JHMLICO failed to provide a *Summary of Rights* at the time of two
22 adverse underwriting decisions relating to one survivorship life insurance policy.

23 j. JHMLICO failed to send notices of adverse underwriting decisions to
24 33 applicants who were the subjects of adverse underwriting decisions.

25

1 6. JHMLICO used 61 advertising pieces in the sale of long-term care
2 insurance that it had not filed with the Director.

3 7. JHMLICO failed to timely file long-term care annual reports in 1993 and
4 1994 with the Director concerning the following:

5 a. Agents with the greatest percentage of lapses and replacements.

6 b. The number of lapsed policies as a percent of total sales and as a
7 percent of total policies in force.

8 c. The number of replacement policies sold as a percentage of total
9 annual sales and as a percentage of total policies in force.

10 8. The Examiners reviewed 91 long-term care applications declined by
11 JHMLICO and found as follows:

12 a. JHMLICO failed to provide one applicant with the specific reason for
13 the adverse underwriting decision in writing.

14 b. JHMLICO failed to provide 26 applicants with a *Summary of Rights* at
15 the time that notices of adverse underwriting decision were communicated to the
16 applicants.

17 c. JHMLICO failed to ask five long-term care applicants if they had any
18 other long-term care coverage in force during the previous 12 months.

19 d. JHMLICO failed to obtain an answer from one long-term care
20 applicant to the question on the application regarding whether he had other long-term
21 care coverage in force.

22 e. JHMLICO failed to ask three long-term care applicants if Medicaid
23 covered them.

24 f. JHMLICO failed to obtain information on four long-term care
25 applications from the agent regarding replacement.

1 g. JHMLICO failed to give three long-term care applicants a compliant
2 *Notice Regarding the Replacement of Life Insurance.*

3 h. JHMLICO as replacing insurer failed on seven occasions to notify
4 existing insurers of proposed replacements within five working days from the dates the
5 applications were received.

6 i. JHMLICO used a consent form that was not filed with the Director to
7 obtain consent for HIV-related testing.

8 9. The Examiners reviewed 94 long-term care policies issued by the Company
9 during the time frame of the examination, and found as follows:

10 a. JHMLICO issued three policies to applicants who did not answer the
11 questions on the application pertaining to other long-term care coverage in force at the
12 time of the applications.

13 b. JHMLICO issued 16 long-term care policies to applicants whose
14 applications did not include a question as to whether they had other long-term care
15 coverage during the preceding 12 months.

16 c. JHMLICO issued one long-term care policy to an applicant whose
17 application did not ask if he was covered by Medicaid.

18 d. JHMLICO issued six long-term care policies to applicants who did not
19 state on the applications whether they intended the policy applied for to replace any
20 existing medical or health insurance.

21 e. JHMLICO issued ten long-term care policies in which the agent failed
22 to sign or complete the agent's replacement section.

23 f. JHMLICO issued 15 long-term care policies that used a non-
24 compliant *"Notice Regarding Replacement."*

1 g. JHMLICO, as replacing insurer, failed on 15 occasions to notify
2 existing insurers of proposed replacements within five working days of the dates that it
3 received the applications.

4 10. The Examiners reviewed 1,085 of 12,808 claims processed by the
5 Company during the time frame of the examination, and found as follows:

6 a. JHMLICO failed to acknowledge receipt of 129 claims within ten
7 working days.

8 b. JHMLICO failed to advise 85 claimants of the acceptance or denial of
9 the claims within fifteen working days after receipt of properly executed proofs of loss.

10 c. JHMLICO failed to pay interest on 44 claims that were not paid within
11 30 days of receipt of an acceptable proof of loss.

12 **CONCLUSIONS OF LAW**

13 1. JHMLICO violated A.R.S. § 20-2110(A) by failing to give applicants for
14 insurance specific reasons for the declinations or to notify them that the specific
15 reasons could be obtained upon written request, and by failing to provide them with a
16 *Summary of Rights*.

17 2. JHMLICO violated A.A.C. R20-6-215(F)(2)(b) by failing to require
18 statements of agents with applications involving the replacement of life insurance as to
19 whether the agent had knowledge that replacement may be involved in the transaction.

20 3. JHMLICO violated A.A.C. R20-6-215(F)(3)(a) by failing to require from its
21 agents with the application for life insurance a copy of the signed "*Notice Regarding*
22 *Replacement of Life Insurance*", and by failing to require its agents to provide a copy
23 of all sales proposals used in the transactions.

1 4. JHMLICO violated A.A.C. R20-6-215(F)(3)(c) by failing to send a *Notice*
2 *Regarding Replacement of Life Insurance* to the existing insurer within three working
3 days.

4 5. JHMLICO violated A.A.C. R20-6-1203(C) and A.R.S. § 20-448.01(B) by
5 using a form that was not filed with the Director to obtain consent for an HIV-related
6 test.

7 6. JHMLICO violated A.A.C. R20-6-211(F)(7) by using computer sales
8 illustrations which contain life insurance cost indexes in the solicitation of life insurance
9 without an explanation to the effect that the indexes are useful only for the comparison
10 of the relative costs of two or more similar policies.

11 7. JHMLICO violated A.A.C. R20-6-215(F)(3)(d) by failing to send copies of
12 the Policy Summaries to existing insurers within three working days of policy issue
13 date.

14 8. JHMLICO violated A.A.C. R20-6-215(F)(3)(e) by failing to provide
15 policyholders with Policy Summaries for replacement policies at or prior to the delivery
16 of the policies.

17 9. JHMLICO violated A.A.C. R20-6-801(G)(1)(a) and A.R.S. § 20-461(A)(5) by
18 failing to advise first party claimants of the acceptance or denial of claims within fifteen
19 working days after receipt of properly executed proofs of loss.

20 10. JHMLICO violated A.R.S. § 20-462(A) and by failing to pay interest on
21 claims that were not paid within 30 days after receipt of acceptable proofs of loss.

22 11. JHMLICO violated A.A.C. R20-6-801(E)(1) and A.R.S. § 20-461(A)(2) by
23 failing to acknowledge claims within ten working days of receipt.

24 12. JHMLICO violated A.A.C. R20-6-1014 by using advertisements for the sale
25 of long-term care insurance that were not filed with the Director.

13. JHMLICO violated A.A.C. R20-6-1007(G)(2), (4), and (5) by failing to timely file annual reports concerning policy lapses and replacements.

14. JHMLICO violated A.A.C. R20-6-1007(A) by using and accepting applications for long-term care insurance which did not include answers to all questions in the application concerning the replacement of existing insurance, did not contain all of the required replacement questions and by accepting applications where the agent did not complete the agent's replacement section.

15. JHMLICO violated A.A.C. R20-6-1007(C) by failing to provide *the Notice Regarding Replacement* to applicants for long-term care policies where replacement appeared to be involved in the form required by A.A.C. Article 10, Appendix A.

16. JHMLICO violated A.A.C. R20-6-1007(E) by failing to notify existing insurers of proposed replacements of long-term care insurance within five working days of receipt of the applications.

17. Grounds exist for the entry of the following Order, in accordance with A.R.S. §§ 20-220, 20-456, and 20-2117.

ORDER

IT IS HEREBY ORDERED THAT:

1. To the extent that it is presently applicable, JHLICO shall cease and desist from the following acts:

a. Failing to advise insureds or prospective insureds in writing of an adverse underwriting decisions, failing to provide insureds or applicants for insurance specific reasons for declinations or to notify them that the specific reasons can be obtained upon written request, and failing to provide them with *Summaries of Rights*.

b. Using a consent form for an HIV-related test that was not approved by the Director.

1 c. Presenting policies of life insurance to insureds or applicants for
2 insurance in which computer sales illustrations were used that included life insurance
3 cost indexes without an explanation of their use.

4 d. Failing to require statements of agents with applications involving the
5 replacement of life insurance as to whether the agent knew that replacement may be
6 involved.

7 e. Failing to require that its agents submit with applications a copy of the
8 *Notice Regarding Replacement of Life Insurance* signed by each applicant for life
9 insurance, and failing to require that agents provide a copy of all sales proposals used
10 in replacement transactions.

11 f. Failing to send a *Notice Regarding Replacement of Life Insurance* to
12 the existing insurer within three working days.

13 g. Failing to send existing insurers copies of Policy Summaries within
14 three working days of the policy issue dates.

15 h. Failing to provide policyholders with a Policy Summary for the new
16 policy at or prior to the delivery of the policy.

17 i. Failing to advise first party claimants of the acceptance or denial of
18 claims within fifteen working days after receipt of an acceptable proof of loss.

19 j. Failing to pay interest on claims not paid within 30 days of receipt of
20 acceptable proofs of loss.

21 k. Failing to timely file annual reports concerning policy lapses and
22 replacements.

23 l. Using and accepting applications for long-term care insurance which
24 do not include answers to all questions in the application concerning the replacement
25

1 of existing insurance, and by accepting applications where the agent did not complete
2 the agent's replacement section.

3 m. Failing to provide the *Notice Regarding Replacement* to applicants for
4 long-term care policies where replacement appeared to be involved, in a compliant
5 form.

6 n. Failing to notify existing insurers of proposed replacements of long-
7 term care insurance within five working days of receipt of the applications.

8 o. Failing to acknowledge claims within ten working days of receipt.

9 2. Within 90 days of the filed date of this Order, JHLICO shall submit to the
10 Arizona Department of Insurance, for approval, evidence that the following corrections
11 have been implemented and communicated to the appropriate personnel, regarding
12 the issues outlined in Item 1 of the Order section of this Consent Order. Evidence of
13 corrective action and communication thereof includes but is not limited to memos,
14 bulletins, E-mails, correspondence, procedure manuals, print screens and training
15 materials.

16 3. Within 90 days of the filed date of this Order, unless previously paid,
17 JHLICO shall pay the interest due on the 44 claims listed in Exhibit A of this Order.
18 Interest shall be calculated at the rate of ten per cent per annum from the date each
19 claim was received by the Company, to the date the claim was paid.

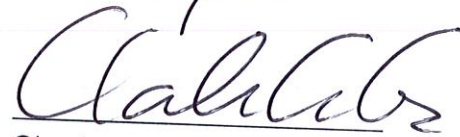
20 4. Each payment referenced in item 3 above shall be accompanied by a letter
21 of explanation to the insured in a form previously approved by the Director. A list of
22 payments giving the name and address of each party paid, the amount of each claim
23 paid, the amount of interest paid and the date of payment, shall be provided to the
24 Department within 90 days of the filed date of this Order.

1 5. The Department shall be permitted, through authorized representatives, to
2 verify that JHLICO has complied with all provisions of this Order.

3 6. JHLICO shall pay a civil penalty of \$27,500 to the Director for deposit in the
4 State General Fund in accordance with A.R.S. §§ 20-220(B), 20-456 and 20-2117.
5 The civil penalty shall be provided to the Market Conduct Examination Section of the
6 Department prior to the filing of this Order.

7 7. The December 31, 1994 Report of Examination of the Market Conduct
8 Affairs of John Hancock Mutual Life Insurance Company, including the letter submitted
9 in response to the Report of Examination, shall be filed with the Department after the
10 director has filed this Order.

11 DATED at Phoenix, Arizona this 29th day of May 2001.

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14 Charles R. Cohen
15 Director of Insurance
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EXHIBIT A

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

VIOLATIONS OF A.R.S. § 20-462(A)

FAILURE TO PAY INTEREST ON CLAIMS NOT PAID WITHIN 30 DAYS OF
RECEIPT OF AN ACCEPTABLE PROOF OF LOSS

Individual Life Insurance Death Claims

116920	224782	402064	121932	224783	411166
123302	224784	421013	123303	313156	

Disability Waiver of Premium Claims

266651	266652	266653	276200	282562
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Individual Group Health Conversions

11001275	12301410	13100111	13100125	13101153	13101166
13504132	13705766	13705774	13800103	13800166	13800171
14103062	14503556	15400104	15900112	25200117	31000607
31908414	32104805	32703732	34803115	34803133	35400608
35503531					

Group Health Insurance Claims

24200705	33640091	36231417
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CONSENT TO ORDER

1. John Hancock Life Insurance Company has reviewed the foregoing Order.

2. John Hancock Life Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, does not contest the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. John Hancock Life Insurance Company is aware of the right to a hearing, at which they may be represented by counsel, present evidence, and cross-examine witnesses. John Hancock Life Insurance Company irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.

4. John Hancock Life Insurance Company states that no promise of any kind or nature whatsoever was made to them to induce them to enter into this Consent Order and that they have entered into this Consent Order voluntarily.

5. John Hancock Life Insurance Company acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. Robert Watts, who holds the office of Senior Vice President of John Hancock Life Insurance Company, is authorized to enter into this Order for them and on their behalf.

JOHN HANCOCK LIFE INSURANCE COMPANY

By

Robert Watts

5/15/01
(Date)

1 **COPY of the foregoing mailed/delivered**
2 **This 30th day of May , 2001, to:**

3
4 Sara Begley
Deputy Director
5 Mary Butterfield
Assistant Director
6 Consumer Affairs Division
Paul J. Hogan
7 Chief Market Conduct Examiner
Market Conduct Examinations Section
8 Deloris E. Williamson
Assistant Director
9 Rates & Regulations Division
10 Steve Ferguson
Assistant Director
11 Financial Affairs Division
Nancy Howse
12 Chief Financial Examiner
Alexandra Shafer
13 Assistant Director
Life & Health Division
14 Terry L Cooper
Fraud Unit Chief
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